

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/764,557	KNIGHT, ANDREW F.	
	Examiner Aaron M. Richer	Art Unit 2676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment after final filed 14 November 2005.
2.  The allowed claim(s) is/are 1,2,4,5, 7-11, and 21.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Andrew F. Knight on January 3, 2006.

The application has been amended as follows:

In the claims, **cancel** claims 12, 13, 15-20, 22, and 23.

### **DETAILED ACTION**

2. Claims 1, 2, 4, 5, 7-11, and 21 are allowed.

3. As to claim 1, Thomas (U.S. Publication 2002/0154212) discloses a method for creating a virtual video, comprising:

    sending an image of an object from a sender to a receiver via an information line, said image having a plurality of identifiable image points, said plurality of identifiable image points being substantially fewer in number than a number of remaining image points of said image (p. 2, paragraph 0025), said object having a plurality of identifiable object points, and said plurality of identifiable image points corresponding to said plurality of identifiable image points (fig. 2; p. 2, paragraph 0024-0026; Eigen features are assigned to points on a mouth, a chin, etc.);

    repeatedly imaging the object to produce a first video (video inherently requires the repeated imaging of an object, at for instance 29.95 frames per second or 24 frames per second depending on video type);

    determining, from the first video, object position data of said plurality of identifiable object points on said object (fig. 2; p. 3, paragraph 0033-0038; positions of Eigen features, or objects, are determined);

    and sending said object position data to said receiver via an information line (p. 5, paragraph 0071; video data corresponding to object position data is received after it is transmitted).

Thomas does not disclose morphing such that identifiable image points are adjusted to correspond with object position data. While Thomas does disclose

morphing using a rectangular box around a mouth with an adjustable position to correspond with a facial image, this does not read on corresponding with object position data. The key difference between the Thomas reference and the instant invention is that the instant invention uses position data corresponding to an actual object, such as a mouth, or an eye. With regards to morphing, the Thomas reference simply cuts a rectangular box around one or many objects (p. 6, paragraph 0087), without regard for where the actual object lies in the facial image. The Eigen features discussed earlier do not seem to have any correlation to the size and shape of this box, nor would one be able to construct a rectangular box from them, looking at figure 2. So while the Thomas reference uses *box* position data to morph, this does not read on "object position data" as recited in claim 1. The box of the Thomas reference is an arbitrary construct that does not give the position of a particular object in the image.

4. The following is an examiner's statement of reasons for allowance:

As to claim 1, the prior art does not anticipate "morphing said image such that image position data of said identifiable image points of said image are adjusted to approximately correspond to said object position data" with the other limitations of claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

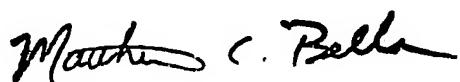
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Richer whose telephone number is (571) 272-7790. The examiner can normally be reached on weekdays from 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMR  
1/3/06



MATTHEW C. BELLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600